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10/064,583	07/29/2002	Franco Leonardi	200-0598	5113

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EXAMINER

PIANALTO, BERNARD D

ART UNIT	PAPER NUMBER
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1762

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Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 0204

Application Number: 10/064,583
Filing Date: July 29, 2002
Appellant(s): LEONARDI ET AL.

FEB 17 2004

James W. Proscia
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1-23-04.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-10 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim Rejections - 35 USC § 102/35 USC § 103

Claim 1 is rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over 1,444,858. This reference discloses on page 1, lines 10-15 and lines 65-98 and page 3, lines 35-50 an article comprising a substrate having a coating comprising permanent magnetic particles dispersed in a binder. It is the examiner's opinion that applicant's article is anticipated by the article of the reference. The article of the reference would inherently contain microstructures of permanent magnet material and would inherently have a permanent magnetic moment. Also the process limitations in these article claims are immaterial from a patentable point of view.

Claim Rejections - 35 USC § 103

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Claims 2-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over 1,444,858 for the same reasons as urged in the above paragraph.

(11) Response to Argument

Applicant's arguments filed 1-23-04 have been fully considered but they are not persuasive. Applicant argues for example in the last full paragraph on page 3 of his brief that "1,444,858 ... is not directed to a kinetic spray process". The examiner is not convinced by this argument since the product of the reference has the same characteristics as that claimed namely microstructures of permanent magnet material embedded in a binder material that have inherently a permanent magnetic moment and applicant has not presented any argument that the reference articles lacks these characteristics. It is the examiner's opinion that a prima facie case of obviousness has been presented and applicant has not presented a showing commensurate in scope with the claims to rebut this presumption of obviousness.



For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

0204

February 9, 2004

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